

**Notice of Allowability**

Application No.

09/881,527

Examiner

Traci L. Smith

Applicant(s)

GIZZIO, JILL LESLIE

Art Unit

3629

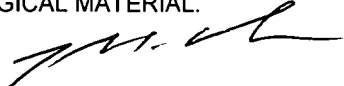
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 20 December 2005.
2. ☒ The allowed claim(s) is/are 2-3.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

  
JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Patricia Wenger on Tuesday, May 9, 2006. The amendments to the claims have been made based on discussions that took place during applicant initiated interview on December 20, 2005. Examiner notes the amendments submitted on April 22, 2006 will not be entered in view of the amendments being made below.

The application has been amended as follows:

Claim 1-(Cancelled)

Claim 2. (Amended) A method of matching a pet ~~The method of Claim 1~~, said pet being a dog ~~said predetermined criteria for assigning said breed code to said plurality of breeds of said pet comprising~~; with an appropriate product comprising the steps of:

a. assigning a breed code to a plurality of breeds of a pet based on predetermined criteria, said predetermined criteria comprises;

assigning an exercise factor to each of said breeds of said dog;

b. assigning an exercise factor to each of said breeds of dog and

c. combining said exercise factor and said weight factor in a predetermined manner to determine breed code.

b. categorizing a product to determine whether the product is appropriate for said plurality of breeds of said dog assigned to said breed code;

c. publishing said assignment of said breed code and said categorization of said product to allow a customer to appropriately match the said product to said breeds of said pet.

Claims 4-13 (cancelled).

2. The following is an examiner's statement of reasons for allowance:

3. Claims 2 and 3 teach a method for determining an appropriate product for a pet, specifically a dog. Dogs are given a "breed code" based on the factors of weight and exercise. A breed code is matched to a product as appropriate for that "breed code". A formula is used to determine a dogs "breed code" by adding the numerical values of the weight and exercise factors together. The numerical values are determined from the chart provided in specification.

4. The prior art fails to teach the concept of a "breed code" that is determined by the specific calculation of a weight factor and an exercise factor. The prior art fails to teach a group of dogs falling into one "breed code". The prior art categorizes the dogs according to one breed or one dog specifically.

**5. US Patent 6,156,355-Shields, Breed-Specific Canine Food Formulations.**

Shields teaches a method of determining a dog food formulation for a specific breed.

The formulation of ingredients are determined based of the specific breed dietary needs

and genetic uniqueness. Shields also takes a breeds/dogs allergies into consideration when determining the right ingredients.

**6. PETsMart.com Dog food Calculator:** PetSmart teaches a method similar to shields however, is gear more directly to an individual dog. PetSmart does not consider breed as a factor when determining the appropriate food for the dog. PetSmart brings in multiple factors specific to the individual dog before determining what dog food is appropriate for that dog.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

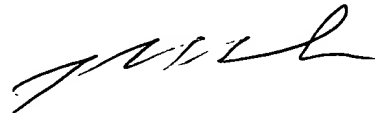
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Smith whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TLS



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